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In re Application of :
Sah, et al. : DECISION ON APPLICATION
Application No. 10/661,984 : FOR PATENT TERM ADJUSTMENT
Filed: September 12, 2003 :
Atty. Dkt. No.: 13751-056001 :

This is a decision on the "PETITION FOR PATENT TERM ADJUSTMENT PURSUANT TO 37 CFR §1.705(b)" filed December 19, 2006.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 467 days. The Office will adjust the PAIR screen to reflect that the Patent Term Adjustment (PTA) determination at the time of mailing of the instant letter reflects an adjustment of 467 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

Applicants request that the Determination of Patent Term Adjustment be corrected from 418 days, as indicated on the Determination of Patent Term Adjustment mailed September 19, 2006, to an adjustment of 467 days. Applicants argue that the reduction of 79 days is improper because the supplemental response to the non-final Office action submitted July 7, 2006 was requested by the examiner, and, thus, not a supplemental response within the meaning of 37 CFR 1.704(c)(8). Applicants further argue that the supplemental response was submitted by USPS Express Mail in accordance with 37 CFR 1.10 on July 5, 2006, rather than July 7, 2006, as indicated in the record.

A review of the record reveals that a supplemental reply to the non-final Office action mailed February 22, 2006 was received on July 7, 2006. As indicated by applicants, the supplemental reply was deposited July 5, 2006 via USPS Express Mail in accordance with 37 CFR 1.10. Accordingly, the "date-in" on the USPS Express Mail label, or, July 5, 2006, is deemed the date of receipt of the reply.

Applicants argue that the supplemental reply was requested by the examiner of record, and, thus, is not a supplemental reply within the meaning of 37 CFR 1.704(c)(8).

While a review of the record does not reveal an examiner interview summary to this effect, applicants' arguments have been reviewed and found convincing. Accordingly, the submission of the supplemental reply on July 5, 2006 is not deemed a failure to engage in reasonable efforts to conclude prosecution, the reply having been expressly requested by the examiner.

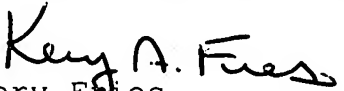
Accordingly, at the time of allowance, the application is entitled to an adjustment of 467 days, as argued by applicants.

Receipt is hereby acknowledged of the required PTA application fee of \$200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publications for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.


Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Adjusted PAIR Calculation

Day : Wednesday

PALM INTRANET

Date: 9/5/2007

Time: 15:15:34

PTA Calculations for Application: 10/661984

Application Filing Date:	09/12/2003	PTO Delay (PTO):	467
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	49
Post-Issue Petitions:	0	Total PTA (days):	467
PTO Delay Adjustment:	49		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
64	09/05/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	49		
46	09/19/2006	MAIL NOTICE OF ALLOWANCE			
45	09/19/2006	MAIL EXAMINER'S AMENDMENT			
44	09/13/2006	ISSUE REVISION COMPLETED			
43	09/13/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
42	09/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
41	09/13/2006	EXAMINER'S AMENDMENT COMMUNICATION			
40	09/13/2006	NOTICE OF ALLOWABILITY			
39	07/17/2006	DATE FORWARDED TO EXAMINER			
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37	05/19/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	05/30/2006	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
35	05/30/2006	DATE FORWARDED TO EXAMINER			
34	05/19/2006	RESPONSE AFTER NON-FINAL ACTION			
33	05/19/2006	NEW OR ADDITIONAL DRAWING FILED			
32	05/19/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	02/22/2006	MAIL NON-FINAL REJECTION	467		-1
30	02/21/2006	NON-FINAL REJECTION			
29	05/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	12/22/2005	PRELIMINARY AMENDMENT			
27	05/27/2005	REFERENCE CAPTURE ON IDS			
26	05/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

25	06/03/2005	CORRESPONDENCE ADDRESS CHANGE			
24	11/09/2004	CORRESPONDENCE ADDRESS CHANGE			
23	11/10/2004	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
22	08/05/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
21	08/05/2004	CASE DOCKETED TO EXAMINER IN GAU			
20	03/18/2004	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
19	04/14/2004	APPLICATION RETURN FROM OIPE			
18	04/14/2004	APPLICATION RETURN TO OIPE			
17	04/13/2004	APPLICATION DISPATCHED FROM OIPE			
16	04/14/2004	APPLICATION IS NOW COMPLETE			
15	03/18/2004	ADDITIONAL APPLICATION FILING FEES			
14	03/18/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
13	03/18/2004	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
12	09/12/2003	CLAIM PRELIMINARY AMENDMENT			
11	04/13/2004	CORRESPONDENCE ADDRESS CHANGE			
10	03/26/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
9	01/02/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
7	09/12/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
6	11/24/2003	CASE CLASSIFIED BY OIPE			
5	11/24/2003	CLEARED BY OIPE CSR			
4	10/15/2003	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	09/26/2003	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
2	09/12/2003	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	09/12/2003	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

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